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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/529,354 09/18/95 FLEISCHMAN

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S EXAMINER-D-CON

ART UNIT PAPER NUMBER
SHAY, D

DATE 3/23/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

11/13/00

- ☒ This application has been examined ☒ Responsive to communication filed on August 1, 2000 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 13, 14, 17, 19, 20, 28, 34, 32, 33, 35, 36, & 38-46 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☒ Claims 1-12, 14, 15, 18, 21-27, 29, 31, 34, & 37 have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 13, 16, 17, 19, 20, 28, 30, 32, 33, 35, 36, & 38-46 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Art Unit: 3739

Claims 13, 16, 17, 19, 20, 28, 30, 32, 33, 35, 36, and 38-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13, 28, 32, 33 are indefinite because the term "adapted to receive..." is not a positive recitation of function, yet is argued as part thereof. Claim 28 is indefinite because the "switching means" and interface recite the same structure. In claim 33, how the controller is "associated" with the interface is unclear. In claim 13 "electronically" will be read as -- electrically

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13, 16, 17, 19, and 20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, does not provide support for regarding claims 13, 16, 17, 19 and 20, altering the length from a first non-zero length to a second non-zero length. (See *Ex Parte Graselli*, 231 USPQ 393 (Bd. App 1983), *aff'd* Mem, 738 F. 2d 453 (Fed Cir 1984) and MPEP 2173-05(i)) or, regarding claims 28, 33, and their dependents, an interface and a separate control device as claimed.

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 13, 16, 19, and 20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Eggers et al ('443).

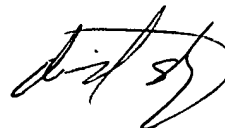
Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers et al ('443) in combination with Avitall ('297). Eggers et al ('443) teach a device as claimed except for the helical electrode or strip electrode. Avitall ('297) teaches the use of a band electrode. It would have been obvious to the artisan of ordinary skill to employ a band electrode as taught by Avitall ('297) since these are not critical, provide no unexpected result and would enable radially symmetric ablation, thus producing, a device such as claimed).

Claims 28, 30, 32, 33, 35, 36, 38, 39, and 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers et al ('443) in combination with Desai ('198) as applied to claim above, and further in view of Eggers et al. Eggers et al teach a device as claimed except manually operable switches each controlling individual electrodes^e. Desai (198) teaches the equivalence of computer controlled switches and manually operated switches for controlling ablation. It would have been obvious to the artisan of ordinary skill to employ manually operable switches to control the electrode in the device of Eggers et al ('443), since this is equivalent to employing computer control, as taught by Desai ('198)

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Any inquiry concerning this communication should be directed to David Shay at
telephone number (703) 308-2215.

David Shay:bhw
October 11, 2000

A handwritten signature in black ink, appearing to read 'David M. Shay', with a stylized flourish at the end.

DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330